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being materially benefited by the discipline of the reformatories, such board of managers shall cause the return of such person to the county from which he was so committed. Such person shall be so returned in the custody of one of the persons employed by the said board of managers to convey to the said institutions prisoners committed thereto, who shall deliver him into the custody of the sheriff of the county from which he was committed. The sheriff shall take such prisoner before the court making the commitment, or some other court having equal jurisdiction in such county, to be resented by such court for the offense for which he was committed to such reformatories, and to be dealt with in all respects as though he had not been so committed. Such person shall not, however, be so returned to the county from which he was committed after the expiration of sixty days subsequent to his admission to the reformatories, unless such prior return or transfer be dangerous to the life or health of such person. The cost and expense of the return of such person necessarily incurred and paid by such board of managers shall be charged against the county from which such person was committed, to be paid by such county to such board of managers in the same manner as other county charges are collected.

§ 307-c. *Persons not to be committed when reformatories overcrowded.* If at any time there shall be as many inmates in the reformatories as can be properly cared for therein, the board of managers may direct the superintendent of reformatories to proceed as hereinafter provided. If subsequent to such direction and before the revocation thereof a person be committed to the said reformatories and the superintendent of such reformatories be so notified in accordance with the law, such superintendent shall advise the committing court that there are as many inmates in the reformatories as can be properly cared for therein. The committing court may thereupon resentence such person for the offense for which he was sentenced, to any other institution in accordance with the law.

§ 4. This act shall take effect immediately.

(See Chap. 848, Laws of 1920.)

—From E. R. Cass, Asst. Gen. Sec'y of the Prison Association of New York.

*Explanation.*—Matter in italics is new law.

#### PAROLE—PROBATION

**Probation in Federal Courts.**—"After a number of years of effort Congress has before it a measure, known as the Loneragan bill, extending to the judges of the United States courts the right to grant probation and suspended sentences in the cases of youthful and first offenders.

"As in the state courts, many persons are convicted of petty offenses who should not be sent to prison, but who should, after conviction or plea of guilty, be released in the care of an officer of the court so that they may work out their own salvation and become good citizens, escaping thereby the stigma of convict.

"Unfortunately this right is denied to the judges of the federal courts, although in practically every state in the Union the right to grant probation and suspended sentence is conferred upon the judges of the nisi prius courts and is continually exercised by them to the benefit of the individuals and of the community at large.

"Parole, which is permitted under the federal statutes, is not satisfactory, particularly in the case of first offenders and youths who are convicted of crime, as before parole can be granted the offender must have served at least one-third of his prison term.

"The inutility of this system must be apparent, because to redeem a man he must be kept out of jail, and that is the purpose of the probation law, which is designed to halt the potential criminal at the outset of his career by giving him a chance to 'make good' under the supervision of a duly appointed official specially qualified to handle such cases.

"The inadvisability of sending such offenders to prison is obvious. Prison is the high school of criminals. Mere contact with men who have spent their lives in breaking the law will as surely make a criminal out of the man who is sent to prison for the first time as it is certain that the sun will rise tomorrow.

"The government that sends first offenders to prison is almost as criminal as they will be at the expiration of their term. Prison is punitive; probation is corrective; and it is correction that is important. Society cannot afford to maintain a large prison population, not alone because of the expense, but because it makes drones out of what otherwise might be made into producing units.

"It is to be hoped that the Lonergan bill will be passed and the judges of the federal courts accorded the same right with regard to first offenders as is accorded under the state law to the judges of the Superior Courts of this state. Many of the convictions in the federal courts are for petty thefts from post-offices, for the violation of federal statutes of one kind or another, or the fraudulent use of the mails.

"Where the amount is small and the offender young, or it is a first offense, it is far better that the youth be given an opportunity to work out his offense and restore the value of the stolen property to the owner or the government than that he be sent to prison to associate with criminals and come out a social liability instead of having the opportunity to become a social asset.

"According to the federal court records, 42,188 offenders were tried during 1919. Of those convicted 76 per cent were first offenders; more than 56 per cent under thirty and more than eleven per cent under twenty years of age. Surely it is a good social investment to at least attempt to prevent these men from becoming habitual criminals and as such a charge upon society.

"Society is coming to the conclusion that it is as criminal to make criminals by sending savable men to prison as it is for men to become habitual offenders. No community can afford to maintain a large number of persons in the idleness of prison life, particularly when the cost of watching them on probation is far less than what it costs to maintain them in prison, if one looks only at the taxpayers' side of it.

"Probation pays; it has paid in San Francisco in the number of men who have been saved from a criminal career and given an opportunity to 'make good.' In the ten years that adult probation has been in effect in this city, out of the 6,025 persons placed on probation, only 266, or 4½ per cent, have violated the terms of their probation.

"The cost of maintenance of the Adult Probation Department during

1919 was \$18,060. During the same period 1,156 persons were released on probation, so that the cost to the taxpayers of the probationers, at work for themselves and their families, was 4½ cents per day or \$15.67½ per year each. These same persons, if they had been committed to prison, would have cost the taxpayers 76 cents per day or \$276 per year each. The answer is obvious.

"Probation means man-saving; it has proven itself in practice in the states and should be extended to the federal courts."—*The Recorder*, San Francisco, May 29, 1920.

#### PENOLOGY

**The Pennsylvania Penal System.**—Mr. Albert Votaw, Secretary of the Pennsylvania Prison Society, has recently completed a survey of the penal institutions of his state. The following is abstracted from his report as published in the *Journal of Prison Discipline and Philanthropy* for May, 1920:

##### *Special Legislation*

"From time to time, beginning about 1830 and continuing to 1868, the General Assembly passed special acts for the management, respectively, of several of the prisons in the larger counties. These counties are Allegheny, Berks, Chester, Dauphin, Delaware, Lancaster, Lehigh, Luzerne, Montgomery, Northampton, Northumberland, Philadelphia and Schuylkill. There may be special legislation affecting minor points in some other counties. Some of those acts presented rather elaborate schemes for prison management. Some features are taken from the statute of 1829 regulating the management of the Eastern Penitentiary. The sheriffs or wardens are to reside within the prison limits and are not to be absent over night unless officially permitted by the Board. This regulation has been modified by a recent statute. The prisoners are to be placed in 'separate and solitary confinement at labor,' a provision wholly unobserved except at the Philadelphia Convict Prison, and even here the labor condition is not fulfilled. 'Discreet and reputable citizens' are to constitute the Board of Inspectors. They must make weekly rounds among the prisons, unaccompanied by the warden, except by their request, and are to take note of all complaints. In at least two counties the inspectors are to be elected by popular vote. Once weekly the inspectors are to check off the prisoners from an authoritative list. Matrons are to be appointed to care for the female prisoners. The warden may visit the women's quarters, but must do so in the company of the matron. It is explicitly stated that the women prisoners are to be 'given such instruction as may tend to their reformation and to render them useful members of society.' The minuteness of directions included in these lengthy statutes is a source of embarrassment. The provisions of the present Constitution, in effect since 1874, forbid such special legislation, but the special legislation in effect prior to 1874 remains in force.

"We are convinced that it is desirable to aim at greater uniformity in the management of our penal institutions. It would be unwise to include in the Constitution a comprehensive scheme of penal management, which, however efficient at the present time, would probably need in a few years to be materially modified in order to keep pace with the progressive spirit of the age.

"We have, therefore, submitted to the commission now engaged in the task of preparing a tentative draft of proposed changes to the Constitution, the desirability of including a similar article relating to *Penal Affairs*.